



# K A N S A S

D. KENT HURN, CHAIRPERSON

DEPARTMENT OF ADMINISTRATION  
CIVIL SERVICE BOARD

KATHLEEN SEBELIUS, GOVERNOR  
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**TO:** Jack Rickerson, Director, Division of Personnel Services  
Mark S. Braun, Director, Office of Administrative Hearings  
D. Kent Hurn, Chairman, Civil Service Board

**FROM:** Peggy Graham, Secretary, Civil Service Board

**DATE:** April 15, 2005

**SUBJECT:** Quarterly Update

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The following reflects the Civil Service Board cases in which action was taken since the January 15, 2005 quarterly report:

A. Cases Decided and/or Disposed Of:

1. **Name Removed**, dismissal *dismissed*  
State Bank Commissioner  
Financial Examiner I. Appellant was dismissed for poor work performance, however he chose to resign in lieu of dismissal and his resignation was accepted by the agency. The matter was dismissed for lack of jurisdiction.
2. **Name Removed**, demotion *reversed*  
Department of Social and Rehabilitation Services  
Human Services Specialist. Appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act.
3. **Name Removed**, 1-day suspension *withdrawn*  
Department of Transportation  
Equipment Operator. Appellant was involved in an accident in January 2005 which was determined to have been preventable if he had used proper precautionary measures. Appellant withdrew his request for a hearing prior to the scheduled hearing.

4. **Name Removed**, dismissal *withdrawn*  
**Kansas Neurological Institute**  
Developmental Disability Technician I. Appellant was dismissed for engaging in sexual harassment in the workplace. The parties reached a settlement and the appellant withdrew his request for a hearing prior to the scheduled hearing.
5. **Name Removed**, dismissal *modified*  
**Topeka Correctional Facility**  
Corrections Officer II. Appellant was approached by two minimum security inmates who were assigned to wear yellow ID badge clips and was asked to give them two red ID badge clips so they could play a joke. The red clips signify medium custody. Appellant gave the inmates the red clips in violation of the agency security policy. After hearing all of the evidence, the Board found that dismissal was not reasonable given the evidence presented and modified the action to a demotion to a non-security position.
6. **Name Removed**, demotion *dismissed*  
**Department of Social and Rehabilitation Services**  
Human Services Specialist. Appellant was demoted during a reallocation process but did not file her request for a hearing within 30 days of the effective date of her demotion. Appellant conceded that her appeal request was filed out of time. The appeal was dismissed for lack of jurisdiction.
7. **Name Removed**, dismissal *withdrawn*  
**Department of Transportation**  
Equipment Mechanic. Appellant misappropriated state property when he took gasoline from agency gasoline pumps and equipment for his personal use. Appellant withdrew his request for appeal prior to the schedule hearing.
8. **Name Removed**, dismissal *affirmed*  
**Osawatomie State Hospital**  
Mental Health Aide. Appellant withdrew more than \$1500.00 from patient accounts for his own personal use over a period of six months while employed at the hospital. After hearing all of the evidence the Board found that the decision of the appointing authority was reasonable.
9. **Name Removed**, dismissal *affirmed*  
**El Dorado Correctional Facility**  
Correctional Officer I. Appellant repeatedly failed to maintain a harmonious relationship with his co-workers. He received 2 unsatisfactory performance evaluations for his inappropriate behavior, several informal counseling sessions, 2 letters of reprimand and a 3-day suspension for his unprofessional conduct and inappropriate behavior before he was dismissed after yet another incident in which he engaged in unprofessional conduct. After hearing all of the evidence the Board found that the decision of the appointing authority was reasonable.
10. **Name Removed**, demotion *reversed*  
**Department of Social and Rehabilitation Services**  
Program Consultant I. Appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over

disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act.

11. **Name Removed**, dismissal *withdrawn*  
**El Dorado Correctional Facility**  
Correctional Officer I. Appellant was dismissed for habitual or flagrantly improper use of leave privileges. The parties reached a settlement and the appellant withdrew his appeal prior to the scheduled hearing.
12. **Name Removed**, demotion *reversed*  
**Department of Social and Rehabilitation Services**  
General Maintenance and Repair Technician Senior. Appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act.
13. **Name Removed**, dismissal *affirmed*  
**Larned State Hospital**  
Licensed Mental Health Technician. Appellant permitted and participated in an unapproved activity for the 13-14 year old patients on her unit. The activity was modeled after the television show "Fear Factor" and required the patients to run with balloons between their legs then sit on them to pop them, to be blindfolded and reach into a bowl of spaghetti, olives, sardines and oysters. The patients were told that the food items were actually brains, eye balls, bones and cow testicles respectively. The patients were sat on their hands and used their faces to pull gummy worms out of a bowl of chocolate pudding. Because the patients were all hospitalized for varying degrees of mental illness including paranoia, hallucinations and the inability to distinguish reality from fantasy and because most if not all of the patients had been sexually abused prior to arriving at LSH, it was determined that this was a wholly inappropriate activity for the patients and constituted abuse and neglect. Appellant had been counseled and disciplined for abuse and neglect of the patients in her care previously. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
14. **Name Removed**, dismissal *affirmed*  
**Parsons State Hospital and Training Center**  
Developmental Disability Technician I. Appellant became angry with a patient at PSHTC who had disobeyed a direction from him to remain in the cottage recreational area. The client returned to his room and the appellant followed the client into the room. The client began cussing at the appellant which angered him even more. Appellant then punched the client in the face several times giving the client a bloody nose. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
15. **Name Removed**, 30-day suspension *withdrawn*  
**Department of Revenue**  
Revenue Customer Representative Senior. Appellant sent an email to his co-workers which contained obscene and abusive language, racial slurs, derogatory references to members of protected groups and sexual connotations. Appellant withdrew his request for appeal prior to the scheduled hearing date.

16. **Name Removed**, demotion *reversed*  
Department of Social and Rehabilitation Services  
Program Consultant I. Appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act.
17. **Name Removed**, 3-day suspension *affirmed*  
Department of Social and Rehabilitation Services  
Social Worker Specialist. Appellant failed to attend two court hearings for children in agency custody and failed to provide the services to the children and their families as had been ordered by the court and left the children at risk for harm or death. After hearing all of the evidence, the Board found that the decision of the appointing authority was reasonable.
18. **Name Removed**, dismissal *dismissed*  
University of Kansas  
Administrative Assistant. Appellant created a hostile working environment by his actions and attitude in the workplace and was insubordinate on several occasions. Appellant failed to appear for his scheduled hearing.
19. **Name Removed**, 3-day suspension *modified*  
Topeka Correctional Facility  
Correctional Officer II. Appellant informed inmates that another correctional officer had been dismissed in violation of the undue familiarity policy and security policy. After hearing all of the evidence, the Board found that a 3-day suspension was not reasonable and modified the decision to a 1-day suspension.
20. **Name Removed**, dismissal *withdrawn*  
Kansas Neurological Institute  
Developmental Disability Technician I. Appellant failed to meet acceptable standards of care when caring for her patients at KNI. Specifically, she made numerous errors in giving medications to patients and failed to follow doctor's order in administering medications. Appellant withdrew her request for appeal prior to the schedule hearing.
21. **Name Removed**, 5-day suspension *withdrawn*  
Parsons State Hospital and Training Center  
Developmental Disability Technician I. Appellant placed his hand on the back of a patient's neck and forced the patient's head between his knees. The parties reached a settlement agreement and the appellant withdrew his request for a hearing.
22. **Name Removed**, demotion *dismissed*  
Department of Social and Rehabilitation Services  
Social Worker Specialist. Appellant was demoted during a reallocation process but did not file her request for a hearing within 30 days of the effective date of her demotion. Appellant conceded that her appeal request was filed out of time. The appeal was dismissed for lack of jurisdiction.

23. **Name Removed**, dismissal *dismissed*  
**El Dorado Correctional Facility**  
Correctional Officer I. Appellant was dismissed from the facility while she was still on probation and the request for hearing was therefore dismissed for lack of jurisdiction.
24. **Name Removed**, demotion *reversed*  
**Department of Social and Rehabilitation Services**  
Human Services Assistant. Appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act.
25. **Name Removed**, resignation *dismissed*  
**Wichita State University**  
Appellant was employed in a permanent classified position with WSU, but resigned her position in July 2004. The appeal was dismissed for lack of jurisdiction.
26. **Name Removed**, demotion *dismissed*  
**Department of Social and Rehabilitation Services**  
Human Services Specialist. Appellant was demoted during a reallocation process but did not file her request for a hearing within 30 days of the effective date of her demotion. Appellant conceded that her appeal request was filed out of time. The appeal was dismissed for lack of jurisdiction.
27. **Name Removed**, layoff *dismissed*  
**Department of Labor**  
Public Service Executive II. Appellant was laid off from the agency pursuant to a layoff plan that was approved by the Division of Personnel Services. Because the Board does not have jurisdiction to hear appeals regarding layoffs, the matter was dismissed for lack of jurisdiction.
28. **Name Removed**, dismissal *affirmed*  
**Hutchinson Correctional Facility**  
Correctional Officer I. Appellant repeatedly had difficulty controlling his anger and behavior while on duty. On one occasion he told an inmate that the inmate's mother was a "crackwhore", he wrote another inmate's name on a pass as "bitch boy" and became belligerent and disruptive during an insurance benefits meeting at the facility. He had been counseled repeatedly about controlling his anger and controlling his behavior when working with inmates. He also lied to the facility about needing to take a sick day when he and his wife had planned to attend BeerFest in Wichita. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.

B. Cases Filed Between January 15, 2005 and April 15, 2005:

1. Department of Transportation, filed January 24, 2005
2. Wichita State University, filed January 31, 2005
3. Fire Marshals Office, filed February 1, 2005
4. Highway Patrol, filed February 2, 2005

5. Topeka Correctional Facility, filed February 7, 2005
6. Parsons State Hospital, filed February 15, 2005
7. Lansing Correctional Facility, filed February 15, 2005
8. Department of Revenue, filed February 17, 2005
9. Department of Social and Rehabilitation Services, filed February 23, 2005
10. El Dorado Correctional Facility, filed February 24, 2005
11. Department of Transportation, filed February 28, 2005
12. Larned Correctional Facility, filed March 1, 2005
13. State Banking Commissioner, filed March 2, 2005
14. Topeka Juvenile Correctional Facility, filed March 9, 2005
15. Kansas Neurological Institute, filed March 9, 2005
16. Department of Social and Rehabilitation Services, filed March 16, 2005
17. Lansing Correctional Facility, filed April 1, 2005
18. Department of Labor, filed April 5, 2005

C. Cases Still To Be Heard:

1. dismissal, Department of Labor, set 5/17/05
2. dismissed, Kansas Neurological Institute, set 4/22/05
3. 3-day suspension, Department of Social and Rehabilitation Services, set 2/7/05
4. dismissal, Larned Correctional Facility, set 4/18/05
5. dismissal, The University of Kansas, set 3/24/05
6. 2-day suspension, Department of Social and Rehabilitation Services, set 4/21/05
7. demotion, Topeka Juvenile Correctional Facility, set 4/21/05
8. 1-day suspension, Lansing Correctional Facility, set 5/4/05
9. dismissal, Department of Revenue, set 4/5/05
10. 20-days suspension, Department of Labor, set 2/22/05
11. 30-day suspension, Wichita State University, set 3/23/05
12. dismissal, Lansing Correctional Facility, set 3/25/05
13. 20-day suspension, Highway Patrol, set 3/8/05
14. 2-day suspension, Fire Marshals Office, set 3/21/05
15. dismissal, Topeka Correctional Facility, set 3/24/05
16. 3-day suspension, Parsons State Hospital, set 3/24/05
17. failure to interview, Department of Social and Rehabilitation Services, set 3/7/05
18. failure to interview, Department of Social and Rehabilitation Services, set 4/8/05
19. demotion, Department of Social and Rehabilitation Services, set 5/2/05
20. dismissal, Parsons State Hospital, set 2/8/05

D. Statistics for Completed Cases:

1. Dismissals: 13
2. Demotions: 8
3. Suspensions: 5
4. Other: 2

1. Affirmed: 6
2. Reversed: 5
3. Modified: 2
4. Dismissed: 8
5. Withdrawn: 7

1. Social and Rehabilitation Services: 15
2. Department of Corrections: 6
3. Transportation: 2
4. University of Kansas: 1
5. Revenue: 1
6. State Bank Commissioner: 1
7. Wichita State University: 1
8. Labor: 1